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**Sep 03 2024**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM FLORENCE COUNTY  
Court of General Sessions

The Honorable Steven H. DeBerry, Circuit Court Judge

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Case No. 2023-001182

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The State,

Respondent,

v.

Antonio Denon Brayboy,

Appellant.

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**APPELLANT'S RETURN IN OPPOSITION TO MOTION TO STRIKE AND REQUIRE  
FILING OF AMENDED INITIAL BRIEF OF APPELLANT**

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Appellant, through its undersigned counsel, respectfully opposes respondent's Motion to Strike and Require Filing of Amended Initial Brief of Appellant.

On October 27, 2020, Appellant was arrested and charged with murder and possession of a weapon during violent crime, if not also sentenced to life without parole or death. The trial was held July 17, 2023, to July 20, 2023, in front of the Honorable Steven H. DeBerry. On July 20, 2023, Appellant was convicted of murder and possession of a weapon during violent crime, if not also sentenced to life without parole or death. The Appellant was sentenced to fifty (50) years for murder and five (5) years for possession of a weapon during violent crime, if not also sentenced to life without parole or death. Appellant filed a Notice of Appeal on July 21, 2023. On February 29, 2024, Appellant filed his Initial Brief and Designation of Matters.

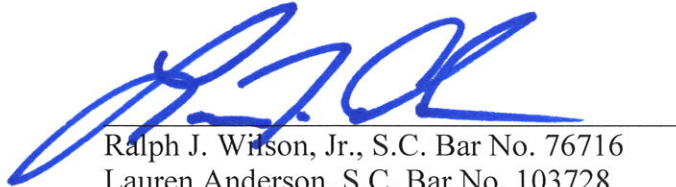
Respondent's brief was due on April 1, 2024. To date, Respondent has made five requests for an extension, the last requiring the brief to be filed by August 30, 2024. On August 14, 2024, Respondent filed this Motion to Strike and Require Filing of Amended Initial Brief of Appellant, over five (5) months after Appellant's Initial Brief was filed and served.

While Appellant references State v. Gibbs in his brief, this is done in support of the arguments made at trial. While the rule states, "Memorandum opinions and unpublished orders have no precedential value and should not be cited except in proceeding which they are directly involved," Appellant would state that the arguments made and considered at trial, directly relate to the findings in Gibbs. SCACR 268(d)(2). Since the arguments at the trial court level would rely upon State v. Gibbs and State v. Carpenter, Appellant should be allowed to cite and reference State v. Gibbs. Appellant relied on and argued the precedential ruling in State v. Carpenter throughout the pretrial motion. Tr. pg. 35, lines 6-8, 14-16, pg. 38, lines 10-11, pg. 39, lines 17-21, pg. 76, lines 1-3, pg. 77, lines 7-13, pg. 84, lines 1-5, pg. 107, lines 8-12. It is important to note that the Court of Appeals, in deciding State v. Gibbs, referenced State v. Carpenter eleven (11) times. The decision made in State v. Gibbs relied upon the arguments and analyses used in State v. Carpenter. While the ruling in State v. Gibbs is not precedential, the ruling in State v. Carpenter, as well as the other cases cited by and through State v. Gibbs are. Further, case law referenced in State v. Gibbs, does have precedential value and should be considered by this Court. For the foregoing reasons, nothing in Appellant's brief should be struck. However, should this Court decide the case itself may not be cited, Appellant contends that the analysis should be allowed as it was the analysis argued at trial and considered by the trial judge in making his ruling.

While Appellant's brief has scrivener errors, these errors do not invalidate the brief itself. It appears, the errors occurred as a result of the formatting of block quotes in the preceding

paragraph. Should this Court require an amended filing for the formatting errors, Appellant would respectfully request this Court consider in full the substance of Appellant's Initial Brief.

WHEREFORE, Appellant prays that the Court deny Respondent's Motion to Strike and Require Filing of Amended Initial Brief of Appellant.



Ralph J. Wilson, Jr., S.C. Bar No. 76716  
Lauren Anderson, S.C. Bar No. 103728  
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*Counsel for Appellant*

September 3, 2024

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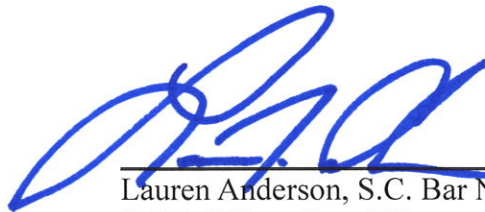
Antonio Denon Brayboy,

Appellant.

PROOF OF SERVICE

I certify that I have served the Appellant's Return in Opposition to Motion to Strike and Require Filing of Amended Initial Brief of Appellant upon the below listed by sending a copy of same by electronic mail, on today's date addressed as follows:

J. Anthony Marby  
Senior Assistant Attorney General  
amabry@scag.gov



Lauren Anderson, S.C. Bar No. 103728  
Ralph Wilson Law PC  
P.O. Box 349  
Myrtle Beach, SC 29578  
*Attorney for Appellant*

September 3, 2024

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Myrtle Beach, SC 29577



Lauren K. Anderson, Esq.  
Managing Attorney

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**SC Court of Appeals**

September 3, 2024

**VIA EMAIL**

The Honorable Jenny Abbott Kitchings  
South Carolina Court of Appeals  
PO Box 11629  
Columbia, SC 29211  
ctappfilings@sccourts.org

RE: The State v. Antonio D. Brayboy  
Appellate Case No. 2023-001182

Dear Madame Clerk:

Please find enclosed and for filing the following:

- 1) Appellant's Return in Opposition to Motion to Strike and Require Filing of Amended Initial Brief of Appellant; and
- 2) Proof of Service.

Sincerely,

A handwritten signature in black ink, appearing to read "Lauren K. Anderson", written in a cursive style.

Lauren K. Anderson, Esq.

Enclosures

Cc: J. Anthony Mabry